



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBIN M. SILVA, ESQ.
DORSEY & WHITNEY LLP
FOUR EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111-4187

COPY MAILED

DEC 02 2004

OFFICE OF PETITIONS

In re Application of
Mayo et al.
Application No. 09/812,034
Filed: March 19, 2001
Attorney Docket No. A-65353-6/RMS/RMK

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely and properly reply to the final Office action mailed October 15, 2003. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on February 16, 2004. A Notice of Abandonment was mailed April 23, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$420.00 extension of time fee (for the additional two-month extension of time) submitted with the petition on April 21, 2004 was subsequent to the maximum extendable period for reply, this fee was unnecessary and was refunded to petitioner via treasury check on June 17, 2004. Any further questions about the refund should be directed to the Office of Finance at (703) 305-8051.

The Notice of Appeal filed April 21, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 1600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy